

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-208280

DATE: July 30, 1982

MATTER OF: Microtech Industries, Inc.

DIGEST:

Protest that offer from firm submitting prices below its regular selling prices should be rejected is dismissed since the submission of a "too-low" bid does not provide a basis for a legal objection to an award. Moreover, whether offeror can perform at its offered price involves question of responsibility, the affirmative determination of which GAO does not review except in circumstances not applicable here.

Microtech Industries, Inc. protests the proposed award of a contract to Xidex Company under program No. 2534-S issued by the Government Printing Office (GPO). Microtech suggests that Xidex may have submitted an unprofitable price because, it alleges, Xidex in the past has not competed on the basis of its regular posted selling price. Microtech sees this as unfair competition. We dismiss the protest.

The submission of a below-cost or unprofitable offer does not provide a legal basis to preclude an award. W.M. Grace, Inc., B-205537, February 1, 1982, 82-1 CPD 74. Whether a firm can perform a contract at its offered price involves the firm's responsibility as a prospective contractor. The contracting officer must make an affirmative determination of responsibility before he can make the award. The General Accounting Office will not review a protest of affirmative determination of responsibility, which is largely a business judgment, unless there is a showing of possible fraud or bad faith on the part of procuring officials or the solicitation contains definitive responsibility criteria which allegedly have not been applied. See Cochran Airport Systems, B-207632, June 7, 1982, 82-1 CPD _____. Neither exception applies here.

Therefore, we dismiss the protest.

For *J. H. Barclay, Jr.*
Harry R. Van Cleve
Acting General Counsel